IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6239 OF 2005

Shri Jeevan Mahadeo Nilkar ..Petitioner.

Versus

Shri Prakash Balaram Patil & Ors. ..Respondents.

Mr. Rajesh More for the petitioner.

Mr.Rajan Salvi with Smt. Swati S.Kulkarni for the Respondent No.1.

Mr. A.H. Palekar, AGP for Respondent No.3.

CORAM : S. A. BOBDE, J.
DATED : 22nd SEPTEMBER, 2005.

P.C.:

1. The petitioner has challenged the order dated 22nd June, 2005 passed by the Additional Commissioner, Konkan Division, Mumbai, dismissing his appeal and thereby, upholding his disqualification under the Mumbai Village Panchayat Act, 1958; hereinafter referred to as ‘the Act’.

2. The petitioner has been disqualified under section 14(1)(J-1) of the Act since he became father of a third child after 13.09.2001 i.e. the date prescribed by law, incurring the disqualification.

Under the aforesaid provision, a member incurs a disqualification if a third child is born after 13.09.2001. The learned counsel for the petitioner submitted that the authorities have committed an error in not accepting the petitioner's case that the third child was born on 23.07.2001 at his residence in village Dehen within the jurisdiction of Shrigaon Grampanchayat.

3. The authorities below have perused the record of the Primary Health Centre Poinad, which includes delivery register and indoor patient register. From the perusal of the evidence on record, the authorities have come to the conclusion that the petitioner's wife was admitted in Primary Health Centre at Poinad on 22.11.2002 and delivered a child on 23.11.2002 at 5.10 a.m.. This evidence clearly shows that the petitioner was disqualified under the aforesaid provisions. The orders are essentially passed on the findings of fact and no perversity is shown in arriving at the said findings. There is no infirmity, jurisdictional or otherwise in the order of the Additional Commissioner.

4. The petition is, therefore, dismissed.

DT.22.09.05 (S.A.BOBDE,J)

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